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Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

BEKERMANN, MICHAEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/893,228

Applicant(s)

TRIFON ET AL.

Examiner

Michael Bekerman

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-23 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8-12-02, 8-19-02, 7-21-04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 2-4, 8-10, and 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Regarding claims 2, 3, 9, and 10**, these claims recite the limitation "and/or".

This is unclear, and the limitation should read "and", or "or", but not both.

**Regarding claim 4**, this claim recites the limitation "potentially". This makes the claim scope confusing and it is unclear if there is a restriction placed on when the Burst-message is to be sent.

**Regarding claim 8**, this claim recites the limitation "said identification". There is insufficient antecedent basis for this limitation in the claim.

**Regarding claim 10**, this claim recites the limitations "said software component(s)" and "said multimedia data". There is insufficient antecedent basis for these limitations in the claim.

**Regarding claim 20**, this claim recites the limitation "said Web-site". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**3. Claims 1-4, 6-14, 17, 18, and 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedi (U.S. Patent No. 6,973,436).** Shkedi teaches a system and method for generating messages to a website browser that includes all of the limitations recited in the above claims.

**Regarding claims 1 and 20**, Shkedi teaches the indication of a connection of a user to a website, the sending of data required for generating a message, and the generating of a message on the web terminal of the user (Abstract).

**Regarding claims 2-4, 6, 9, 10, 13, 14, 17, 18, and 23**, Shkedi teaches the message as being interactive, written in HTML, interstitial, linking (HTML page address

pointers), multimedia, DHTML, interactive, entertainment (user could enjoy looking at advertisements), and advertisements.

**Regarding claim 7**, the indication of Shkedi is inherently provided by software within the webpage (Abstract).

**Regarding claim 8**, Shkedi uses the IP address to identify the user (Column 6, Lines 13-25).

**Regarding claims 11, 12, 21, and 22**, Shkedi teaches a web-TV content provider (set-top box) as being a communication node (being on the internet inherently requires a computer of some sort) (Column 4, Lines 12-16).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedi (U.S. Patent No. 6,973,436).**

**Regarding claims 15 and 16**, Shkedi does not specify the termination of a message. It would have been obvious to one having ordinary skill in the art at the time the invention was made for the user to terminate the advertisement. Otherwise, the advertisement would continue running forever and would use valuable computer resources.

5. **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedi (U.S. Patent No. 6,973,436) in view of Niu (U.S. Pub No. 2002/0062245).**

Regarding claim 19, Shkedi does not specify the generated message as containing chat components. Niu teaches offering promotions over websites using banner advertisements as well as live text chat (Paragraph 0044). It would have been obvious to one having ordinary skill in the art at the time the invention was made to offer chat components in a generated website message. This would allow for immediate feedback from the user.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to message generation on websites:

U.S. Patent No. 6,295,061 to Park

U.S. Patent No. 6,941,345 to Kapil


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JEFFREY D. CARLSON  
PRIMARY EXAMINER